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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,379	01/26/2006	Michael Neumann	2003P01109WOUS	2098

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BSH HOME APPLIANCES CORPORATION
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EXAMINER

GALLEG0, ANDRES F

ART UNIT	PAPER NUMBER
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4193

MAIL DATE	DELIVERY MODE
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12/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,379	Applicant(s) NEUMANN, MICHAEL	
	Examiner ANDRES GALLEG0	Art Unit 4193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :26 January 2006 and 06 October 2008.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "guide rails 11" mentioned in Page 3, Line 1 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: element 5 in Figure 1 of the drawings has no basis in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner interprets "guide rails" to correspond with element 5 in the drawings.

Appropriate correction is required.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

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- (I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification is not properly arranged, as the sections have not been labeled.

Appropriate correction is required.

The disclosure is objected to because of the following informalities:

Page 3 Lines 17 and 26 should have element 7 labeled as --pull-out drawers 7-- instead of "pull-out draws 7" to match the rest of the specification when making reference to element 7.

"Guide rails 11" (Page 3 Line 9) are not labeled in the drawings. Examiner interprets "guide rails" to correspond with element 5 in the drawings.

Appropriate correction is required.

The disclosure is objected to because of the following informalities: 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

Page 1 Line 18 of the specification is grammatically incorrect. "It was thus the object of the present invention..." should be written as --Thus, it was the object of the present invention...--.

Page 1 Line 29 is grammatically incorrect. "... even when used for fairly long time..." should be written as --...even when used for a very long time...--.

Appropriate correction is required.

Claim Objections

Claims 11, 15, 20, 21 are objected to because of the following informalities:

Claim 11 contains a grammatical error. "... including said shelf area contains pigments" should be written as --... wherein said shelf area contains pigments--.

Claim 15 contains a grammatical error. "... a ceramic material includes a shelf..." should be written as --... a ceramic material that includes a shelf...--.

Claim 20 contains a grammatical error. "... including at least one set of pigments are added to said glaze" should be written as --... including at least one set of pigments added to said glaze."

Claim 21 contains grammatical errors. "The cooling device according claim 15, including said two placement devices are each differently coloured" should be written as -- The cooling device according to claim 15, including said two placement devices, each being differently coloured--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 9, 13, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9, Line 2 recites the limitation "a ceramic material". There is insufficient antecedent basis for this limitation in the claim. Examiner cannot determine if "a ceramic material" is the same one mentioned previously in claim 8, or if a new ceramic material is being introduced.

Claim 13, Line 2 recites the limitation "pigments". There is insufficient antecedent basis for this limitation in the claim. Examiner cannot determine if "pigments" are the same ones mentioned previously in claim 11, or if new pigments are being introduced.

Claim 15, Lines 5 and 7 recites the limitation "a ceramic material" twice. There is insufficient antecedent basis for these limitations in the claim. Examiner cannot determine if "a ceramic material" is the same one mentioned previously in the same claim, or if a new ceramic material is being introduced.

Claim 16 recites the limitation "a ceramic material". There is insufficient antecedent basis for this limitation in the claim. Examiner cannot determine if "a ceramic material" is the same one mentioned previously in claim 15, or if a new ceramic material is being introduced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Melson et al. (U.S. Patent Number 6113206).

Regarding claims 8-10, Melson discloses an inner chamber (1) provided with at least one placement device acting as a support plate (3) for items to be placed such as food, said placement device including a shelf area made of a ceramic material, wherein the said placement device is fabricated in one piece from a ceramic material (Figure 1; Column 3 Lines 55-62; Column 4 Lines 26-30).

Claim 9 is considered a product-by-process claim because of the "fabricated in one piece" limitation. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." See MPEP 2113.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Melson in view of Aitken et al. (U.S. Patent Number 5179045). Melson discloses the claimed invention except for a shelf area containing pigments. Aitken teaches a ceramic material containing a pigment as shown in Column 3 Lines 42-46, and Column 4 Lines 10-15, 27-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ceramic material used to make the shelf area of Melson by providing the ceramic material with a color package, as taught by Aitken, since such a modification, based on user preferences, would allow ceramic material to have color.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melson in view of Eppler et al. (U.S. Patent Number 5783506). Melson discloses the claimed invention except for at least two placement devices made of a ceramic material provided with a glaze having pigments added to it, and are each differently colored. Eppler teaches a glaze that can be applied to ceramic materials as shown in the title, Column 2 Lines 10-13, 35-39, and Column 4 Lines 15-16, 32-34, 46-49, 61-62. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify placement devices of Melson, which are made of ceramic materials, to have any of the different pigmented glazes taught by Eppler applied to them individually, since such a modification would allow the placement devices to be color coded.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melson in view of Metcalfe et al. (U.S. Patent Number 4921315).

Regarding claim 15 and 16, Melson discloses an inner chamber (1) provided with a first placement device acting as a support plate (3) for items to be placed such as food, said placement device including a shelf area made of a ceramic material (Figure 1; Column 3 Lines 55-62; Column 4 Lines 26-30). However, Melson does not disclose a second placement device formed as a ceramic pull-out box. Metcalfe teaches a ceramic pull-out box (15) as shown in Figures 1, 2, Column 1 Lines 67-68, and Column 4 Lines 1-5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the door of Melson to hold a ceramic pull out box as taught by Metcalfe, since such a modification would allow the pull-out box to be moved around easier.

Claim 16 is considered a product-by-process claim because of the “fabricated in one piece” limitation. “Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” See MPEP 2113.

Regarding claim 17, Metcalfe further teaches a door compartment (115) as shown in Figure 6, Column 1 Lines 67-68, and Column 4 Lines 1-5, 47-56. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the door of Melson to hold a door compartment as taught by Metcalfe, since such a modification would allow the door compartment to be moved around easier.

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Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Melson in view of Metcalfe, as applied to claim 15, in further view of Aitken et al. Melson in view of Metcalfe teaches the claimed invention except for a shelf area containing pigments. Aitken teaches a ceramic material containing a pigment as shown in Column 3 Lines 42-46, and Column 4 Lines 10-15, 27-35. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ceramic material used to make the shelf area of Melson by providing the ceramic material with a color package, as taught by Aitken, since such a modification, based on user preferences, would allow ceramic material to have color.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melson in view of Metcalfe and Eppler et al. (U.S. Patent Number 5783506). Melson in view of Metcalfe teaches the claimed invention except for at least two placement devices made of a ceramic material provided with a glaze having pigments added to it, and are each differently colored. Eppler teaches a glaze that can be applied to ceramic materials as shown in the title, Column 2 Lines 10-13, 35-39, and Column 4 Lines 15-16, 32-34, 46-49, 61-62. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify placement devices of Melson, which are made of ceramic materials, to have any of the different pigmented glazes taught by Eppler applied to them individually, since such a modification would allow the placement devices to be color coded.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRES GALLEGO whose telephone number is (571)270-7630. The examiner can normally be reached on Monday - Friday, 7:30 AM - 5:00 PM EST (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/16/08